

**COURT OF APPEALS
FIRST APPELLATE DISTRICT
HAMILTON COUNTY, OHIO**

FILED
 2003 JUL 10 P 2:55
 GREGORY HARTMANN
 CLERK OF COURTS
 HAM. CNTY. OH

STATE OF OHIO

Case Nos. C-980673; C-980674

Plaintiff-Appellee

vs.

EARL INGLES

**MEMORANDUM IN OPPOSITION
TO APPLICATION FOR
REOPENING**

Defendant-Appellant

In his application for reopening, appellant has a list of several assignments of error.

However, appellant has failed to show good cause for filing his application almost three and one-half years after this Court's judgment was journalized, well beyond the ninety days permitted by App. R. 26(B)(2)(b). In an affidavit filed by defendant's counsel, counsel states defendant had limited access to the outside world making it difficult to find competent counsel. However, appellant has no right to counsel to assist him in filing his application to reopen his appeal. State v. Dennis (1997) 86 Ohio St.3d 201, 713 N.E.2d 426. Neither defendant's ignorance of the law nor his misplaced reliance upon counsel excuse him from ensuring his application was filed timely. State v. Pierce (1996) 74 Ohio St.3d 453, 659 N.E.2d 1252.

Additionally, defendant could have filed his application in a direct appeal to the Ohio Supreme Court. State v. Murnahan (1992) 63 Ohio St.3d 60; 584 N.E.2d 1204.

Finally, defendant has made a list of alleged error(s) in his application for reopening. However, defendant has failed to show good cause for the late filing of issue presented, App. R. 26 (B)(1).

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EXHIBIT

D

PERGAD-Bayonne, N. J.

Defendant's application filed approximately three and one-half years late should be denied.

Respectfully submitted,



Thomas J. Boychan, Jr., 0040183P

Assistant Prosecuting Attorney

230 East Ninth Street, Suite 4000

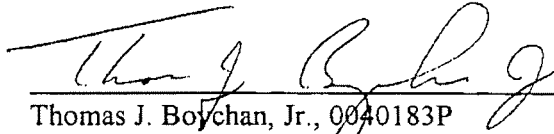
Cincinnati, Ohio 45202

513/946-3158

Counsel for Plaintiff-Appellee, State of Ohio

CERTIFICATE OF SERVICE

I hereby certify that on this 7 day of July, 2003, I have mailed a copy of the foregoing Memorandum in Opposition to Application for Reopening by regular U.S. mail addressed to Timothy Wilson, 14 Driftwood Street, #5, Marina Del Ray, California 90292.



Thomas J. Boychan, Jr., 0040183P

Assistant Prosecuting Attorney